



Entered w/ REE dated 11/29/09. 11/25/09

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Smith, Jr.

Application No.: 10/701,146

Filed: 11/4/2003

Title: Cargo Oriented Aircraft

Attorney Docket No.: 50121

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Art Unit:  
3644

Examiner:  
Tien Dinh

RESPONSE TO OFFICE ACTION

Made Final  
Mailed 10-21-08

Dear Sir:

In response to the Office Action of October 21, 2008, please amend this application as follows:

In the claims:

As per the attached claim amendment sheet.

REMARKS

Request that finality of prior Action be removed

Applicant respectfully requests that the finality of the above referenced Action, mailed 10/21/2008, be removed as premature. Page 3 of the Action, third paragraph, contains a new ground of rejection, and is based upon a new reference. The new ground of rejection was not necessitated by Applicant's amendment.

Re Amendment to Claim 2 – Not Substantive

Dependent claim 2 had recited yaw control surfaces on the "wing." Claim 1 had referred, however, to a "larger lifting surface" rather than a "wing," (Paragraph 0010, last sentence, recites that: "the larger horizontal lifting surface is referred to as the wing.") Applicant amended "the wing" in claim 2, nonetheless, to "the larger lifting surface" for consistency of antecedent basis. Such was not a substantive matter. The amendment did not necessitate the new ground of rejection.

The New Ground of Rejection Relates to a Prior Omission of Any Basis for Rejection

Rather, the new ground of rejection, stated on page 3 third paragraph, rejects claim 2 over Rutan '800 in view of Rutan ATTT and further in view of Burnelli. Reference Burnelli is newly applied in regard to the limitation of yaw control surfaces on the larger lifting surface, the limitation of claim 2. The Examiner states that, in order to definitely show yaw control surfaces on the larger lifting surface, a citation to Burnelli 1,987,050 is necessary.